

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Karina Herrera	Team: Squad #2	CCRB Case #: 201707882	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 09/20/2017 9:18 PM	Location of Incident: Remsen Avenue between Avenue N and Seaview Avenue	Precinct: 69	18 Mo. SOL 3/20/2019	EO SOL 3/20/2019	
Date/Time CV Reported Mon, 09/25/2017 1:28 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 09/25/2017 1:28 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Daniel Guida	5358	941862	069 PCT
2. POM Louis Villegas	22408	953533	069 PCT
3. POM Nicklas Yardan	25155	946577	069 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Daniel Guida	Abuse: Sergeant Daniel Guida stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POM Louis Villegas	Abuse: Police Officer Louis Villegas stopped the vehicle in which § 87(2)(b) was an occupant.	
C.POM Nicklas Yardan	Abuse: Police Officer Nicklas Yardan stopped the vehicle in which § 87(2)(b) was an occupant.	
D.POM Louis Villegas	Abuse: Police Officer Louis Villegas frisked § 87(2)(b)	
E.SGT Daniel Guida	Abuse: Sergeant Daniel Guida frisked § 87(2)(b)	
F.POM Louis Villegas	Abuse: Police Officer Louis Villegas searched § 87(2)(b)	
G.SGT Daniel Guida	Abuse: Sergeant Daniel Guida searched § 87(2)(b)	
H.POM Louis Villegas	Abuse: Police Officer Louis Villegas searched the vehicle in which § 87(2)(b) was an occupant.	
I.SGT Daniel Guida	Abuse: Sergeant Daniel Guida searched the vehicle in which § 87(2)(b) was an occupant.	
§ 87(4-b), § 87(2)(g)		

Case Summary

On September 25, 2017, § 87(2)(b) filed the following complaint with the CCRB via telephone.

At approximately 9:18 p.m. on September 20, 2017, § 87(2)(b) was inside of his home located at § 87(2)(b) in Brooklyn when he noticed red lights flashing outside of his window. § 87(2)(b) looked outside of his window and saw an individual, § 87(2)(b) sitting inside of his vehicle while three officers, Sergeant Daniel Guida, Police Officer Louis Villegas, and Police Officer Nicklas Yardan of the 69th Precinct, interacted with § 87(2)(b) and his vehicle (**Allegation A: Abuse of Authority, § 87(2)(g)** (**Allegation B: Abuse of Authority, § 87(2)(g)** (**Allegation C: Abuse of Authority, § 87(2)(g)**

§ 87(2)(b) exited his house and began recording the incident on his cellphone. Police Officer Villegas frisked § 87(2)(b) (**Allegation D: Abuse of Authority, § 87(2)(g)** (**Allegation E: Abuse of Authority, § 87(2)(g)** § 87(2)(b) removed his shoes and Police Officer Villegas searched them (**Allegation F: Abuse of Authority, § 87(2)(g)** (**Allegation G: Abuse of Authority, § 87(2)(g)** § 87(2)(b) was then escorted to the rear of his vehicle where he stood with Sergeant Guida and Police Officer Yardan.

As Sergeant Guida, Police Officer Yardan, and § 87(2)(b) were conversing at the rear of § 87(2)(b)'s vehicle, Police Officer Villegas searched the vehicle (**Allegation H: Abuse of Authority, § 87(2)(g)** (**Allegation I: Abuse of Authority, § 87(2)(g)** After the search of the vehicle was conducted, the officers entered their police vehicle and left without arresting or issuing a summons to § 87(2)(b)

§ 87(4-b), § 87(2)(g)

§ 87(2)(b) provided the CCRB with the video of the incident that he recorded on his cellphone (Board Review 01). The video captured most of the incident – from § 87(2)(b) exiting his vehicle to the officers entering the police vehicle to depart the scene. The full video is attached to IA#16 and the relevant portions are embedded in the relevant sections below.

Findings and Recommendations

Allegation (A) Abuse of Authority: Sergeant Daniel Guida stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation (B) Abuse of Authority: Police Officer Louis Villegas stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation (C) Abuse of Authority: Police Officer Nicklas Yardan stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation (D) Abuse of Authority: Police Officer Louis Villegas frisked § 87(2)(b)

Allegation (E) Abuse of Authority: Sergeant Daniel Guida frisked § 87(2)(b)

Allegation (F) Abuse of Authority: Police Officer Louis Villegas searched § 87(2)(b)

Allegation (G) Abuse of Authority: Sergeant Daniel Guida searched § 87(2)(b)

Allegation (H) Abuse of Authority: Police Officer Louis Villegas searched the vehicle in which § 87(2)(b) was an occupant.

Allegation (I) Abuse of Authority: Sergeant Daniel Guida searched the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) and § 87(2)(b) provided telephone statements on September 25, 2017 (Board Review 02) (Board Review 03). § 87(2)(b) and § 87(2)(b) were interviewed at the CCRB on September 27, 2017. Sergeant Guida was interviewed at the CCRB on November 24, 2017. Police Officer Villegas and Police Officer Yardan were interviewed at the CCRB on December 8, 2017.

§ 87(2)(b), § 87(2)(g) As per § 87(2)(b) at the time he first observed the officers, he had double-parked his vehicle on Remsen Avenue, between Avenue N and Seaview Avenue in Brooklyn, with his hazard lights on. § 87(2)(b) had parked his vehicle so he could make a phone call to his mother.

Despite the fact that the officer interviews began approximately two months after the incident date, Sergeant Guida, Police Officer Villegas, and Police Officer Yardan collectively had no recollection of the incident. After being shown the video that was taken by § 87(2)(b) all three officers identified themselves and each other in the footage, but they did not recall any details regarding the reasons behind their actions.

§ 87(2)(b), § 87(2)(g) The video begins with § 87(2)(b) exiting his vehicle as Sergeant Guida, Police Officer Villegas, and Police Officer Yardan stand around it. When asked if he performed any vehicle stops on the incident date, Sergeant Guida said he did not recall and then referenced his Memo Book, which had no entry regarding a vehicle stop. Sergeant Guida stated, “Outside of my Memo Book, I don’t remember anything in particular about this date.” Police Officer Yardan did not recall any vehicle stops performed by him or any other officers he was with on the incident date. Police Officer Villegas stated that the incident location was a part of his patrol sector, and although he may have driven by the incident location, he did not recall being there on the incident date. After watching the portion embedded below from the beginning

of the full video, all three officers acknowledged that the video showed them stopping § 87(2)(b)'s vehicle, but they did not recall their reason(s) for approaching § 87(2)(b)'s vehicle.



2018-02-27_17-29-34.mp4

In the next portion of the video, as soon as § 87(2)(b) exits his vehicle, Police Officer Villegas pats down the exterior of § 87(2)(b)'s clothes, specifically around his pants and his waist. After watching the portion of the video embedded below, Sergeant Guida and Police Officer Yardan stated that no other officers besides Police Officer Villegas frisked § 87(2)(b) but that acknowledgement was solely based on what Sergeant Guida and Police Officer Yardan saw in the video and not their own recollections of the incident. However, after watching the same portion of the video, Police Officer Villegas stated that he could not tell from the video if he had frisked § 87(2)(b).



2018-02-27_17-37-23.mp4

In his statement, § 87(2)(b) alleged that his shoes were removed and then Police Officer Villegas placed his hands inside of them. He was then escorted, while barefoot, to the rear of his vehicle. The portion of the video embedded below shows Police Officer Villegas and Police Officer Yardan looking at the ground in front of § 87(2)(b) prior to being taken to the rear of his vehicle; however, what is on the ground is not visible because § 87(2)(b)'s vehicle obscures the view. Police Officer Villegas then bends his body downward towards the ground in front of § 87(2)(b). When shown the video, Police Officer Villegas did not know why his upper body was bent downward towards the ground in front of § 87(2)(b) and he could not tell by the video if he searched § 87(2)(b).



201707882_20180227_1753_DM.mp4

Afterwards, § 87(2)(b) is escorted to the rear of his vehicle where he speaks to Sergeant Guida and Police Officer Yardan. As shown in the video embedded below, while § 87(2)(b) is at the rear of his vehicle, Police Officer Villegas picks up a pair of dark shoes from the ground where § 87(2)(b) had previously been standing and places his hand inside of each shoe. Police Officer Villegas then places the shoes onto the driver's seat of § 87(2)(b)'s vehicle.



2018-02-27_18-15-09.mp4

As Sergeant Guida and Police Officer Yardan continue conversing with § 87(2)(b) Police Officer Villegas proceeds to enter and search § 87(2)(b)'s vehicle. In the portion of video below, Police Officer Villegas identified himself as the officer inside of § 87(2)(b)'s vehicle, but he did not remember why he searched § 87(2)(b)'s vehicle.



201707882_20180227_1824_DM.mp4

A traffic stop is permissible when a police officer has probable cause to believe that the driver of an automobile has committed a traffic violation, People v. Guthrie, 25 N.Y.3d 130 (2015) (Board Review 11). Double parking of non-commercial vehicles are prohibited at all times in all locations in New York City, even if they are occupied. New York City Traffic Rules Section 4-08(f)(1) (Board Review 12). As per Patrol Guide Section 212-11, a frisk is authorized when a member of service reasonably suspects a person is armed (Board Review 04). If a frisk reveals an object that the officer reasonably suspects may be a weapon, a search may be conducted in order to remove the weapon. However, the purpose of a frisk is to ensure an officer's safety and not to locate evidence, such as drugs. In regards to vehicle stops, if there is no "actual and specific" threat to the safety of the officer, or any further justification to search the vehicle, such as probable cause, such a search is unlawful, People v. Hackett, 47 A.D.3d 1122 (2008) (Board Review 05).

§ 87(2)(b), § 87(2)(g)
[Redacted text block]

§ 87(2)(b), § 87(2)(g)
[Redacted text block]

§ 87(4-b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint (Board Review 08).
- § 87(2)(b) has been involved in nine CCRB cases (Board Review 08). In CCRB case #200602921, allegations of stop of person, search of person, and refusal to provide name and shield number were unsubstantiated and exonerated, and an allegation of Offensive Language was closed as victim uncooperative. In CCRB case #200700727, allegations of stop of person, search of person, and search of vehicle were closed as victim uncooperative. In CCRB case #200713298, allegations of Discourtesy, stop of person, frisk, search of person, and refusal to provide name and shield number were

unsubstantiated. In CCRB case #200801243, allegations of physical Force were unsubstantiated and closed as victim uncooperative and victim unavailable. In CCRB case #201209972, an allegation of a vehicle stop was closed as officers unidentified. In CCRB case #201502063, allegations of stop of person and threat of force were closed as complainant uncooperative. In CCRB case #201706476, allegations of threat of arrest and refusal to process a complaint were closed as officers unidentified.

- Sergeant Guida has been a member of the NYPD for eleven years and has been involved in nine CCRB cases with thirty allegations pleaded against him. Four of these allegations were for vehicle stops, six were for frisks, four for search of person, and one was for a vehicle search. None of these previous allegations have been substantiated.
- Police Officer Yardan has been a member of the NYPD for ten years and has been involved in twelve CCRB cases with thirty allegations pleaded against him. Three of these allegations were for vehicle stops and two allegations were for failure to create memo book entries. Although Police Officer Yardan received a penalty of command level instruction for one of his memo book entry allegations, none of his previous allegations have been substantiated.
- Police Officer Villegas has been a member of the NYPD for five years and has twelve previous allegations within five cases with one substantiated allegation. Out of Police Officer Villegas' twelve allegations, one was for a vehicle stop, one for a frisk, one for a search of person, and another one was for a vehicle search. In CCRB case #201707096, Police Officer Villegas' frisk allegation was substantiated and the board recommended Command Discipline B as the penalty.

Mediation, Civil and Criminal Histories

- § 87(2)(b) was presented with mediation. He refused to participate in mediation because he believed the officers deserved to be disciplined.
- § 87(2)(b) was presented with mediation. He refused to participate in mediation because he did not want to talk to the officers.
- § 87(2)(b) and § 87(2)(b) do not have criminal conviction histories (Board Review 09) (Board Review 10).
- On February 23, 2018, a Notice of Claim inquiry was submitted to the New York City Comptroller's Office and the results will be added to the case file upon receipt.

Squad No.: _____ 2 _____

Investigator:	Signature	Print Title & Name	Date
Squad Leader:	Signature	Print Title & Name	Date
Reviewer:	Signature	Print Title & Name	Date